

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SERGIO MOMOX-CASELIS, *et al.*,

Plaintiff,

vs.

MAIRA JUAREZ-PAEZ, *et al.*,

Defendant.

Case No. 2:16-cv-00054-APG-GWF

ORDER

This matter is before the Court on Plaintiffs' Emergency Motion to Extend Time to Serve Defendants, Maira Juarez-Paez and Estate of Joaquin Juarez-Paez and to Serve Maira Juarez-Paez by Publication (#21), filed on March 8, 2016.

Pursuant to Fed. R. Civ. P. 6(b) and LR 6, extensions of time may be granted for good cause shown. Further, Rule 4(m) of the Federal Rules of Civil Procedure – which governs the time limit of service – allows the court to grant an extension of time for service if the plaintiff can show good cause for his failure to timely serve a defendant. Rule 4(e) of the Federal Rules of Civil Procedure provides that the state statutes in which the District Court is held are followed in matters pertaining to service of summons by publication. N.R.C.P. 4(e)(1)(i) states that the court may permit service by publication if, after due diligence shown, the plaintiff is unable to find the defendant(s) within the state, or they are avoiding the service of summons. The plaintiff must prove this to the satisfaction of the court either by affidavit or by a verified complaint. The Nevada Supreme Court has held that there is no objective, formulaic standard for determining what is, or is not, due diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

Plaintiffs represent that they are seeking to establish an estate in order to serve Defendant Estate of Joaquin Juarez-Paez. As the estate has not yet been created, Plaintiffs have been unable to

perfect service. Therefore, Plaintiffs request an additional ninety (90) days to establish Joaquin Juarez-Paez's estate and, thereafter, serve Defendant Estate of Joaquin Juarez-Paez. The Court finds that Plaintiffs have established good cause to warrant an extension of time to serve Defendant Estate of Joaquin Juarez-Paez.

Plaintiffs also request an extension of time to serve Defendant Maira Juarez-Paez by publication. Plaintiffs assert that they have demonstrated due diligence by making six (6) separate attempts at effectuating personal service on Defendant Maira Juarez-Paez at her last known address, which has since been determined to no longer be a correct address. Further, Plaintiffs performed searches of the County Assessor's Office, voters registrations, and telephone directories. These searches produced no results. As such, Plaintiffs have demonstrated due diligence in attempting service on Defendant Maira Juarez-Paez that would warrant permitting service by publication. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Emergency Motion to Extend Time to Serve Defendants, Maira Juarez-Paez and Estate of Joaquin Juarez-Paez and to Serve Maira Juarez-Paez by Publication (#21) is **granted** as follows:

1. Defendant Maira Juarez-Paez may be served by Plaintiffs through publication of the summons and complaint in this case at least once a week for four (4) consecutive weeks in the Nevada Legal News, which is a newspaper of general circulation published in Las Vegas, Nevada. Said service must be effectuated on or before **June 12, 2016**.
2. Plaintiffs shall have until **June 12, 2016** to serve Defendant Estate of Joaquin Juarez-Paez.

DATED this 9th day of March, 2016.



GEORGE FOLEY, JR.
United States Magistrate Judge